IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 3993 of 2003

DATED: 18.7.2007

Between:

M/s. Sai Wines petitioner

And

The Commissioner of Prohibition and Excise,
Andhra Pradesh, Hyderabad & ors Respondents

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ORAL ORDER:

This writ petition is filed questioning the action of the respondents in not refunding the licence fee for the period 1.10.2001 to 28.11.2001 on the ground that it did not undertake any business for the said period.

The petitioner herein applied for grant of IL-24 licence under the name and style of M/s. Sai Wines in terms of notification dated 10.9.2001 for Nagnoor village and the same was allotted to him, however he has not completed the formalities within the stipulated time and subsequently made an application seeking permission to establish IL-24 retail shop at Malkapur village instead of Nagnoor village and vide proceedings dated 27.11.2001 he was permitted to establish IL-24 shop at Malkapur village. Accordingly, petitioner was issued retail licence on 29.11.2001 in the name of M/s Sai Wines, Malkapur. The grievance of the petitioner is that though he was granted licence on 29.11.2001, the licence fee was collected from 1.10.2001 to 31.3.2002 and claims that he is entitled to refund of the licence from 1.10.2001 to the date of actual grant of licence i.e., 28.11.2001.

Learned counsel for petitioner submitted that the petitioner is entitled to refund of the licence fee for the period he has not undertaken the business and placed reliance on orders of this Court in

W.P. No. 15320 of 2002 dated 26.9.2002.

A counter affidavit is filed on behalf of respondents stating that a notification dated 10.9.2001 was issued inviting applications for grant of IL-24 licences for the year 2001-02. The petitioner has applied for IL-24 licence for Nagnoor village and his application was selected in the lot as per Rule 31 of A.P. IL & FL Rules, 1970. As per the terms, the licence should be granted within two days of completion of formality by the successful applicants and the petitioner did not comply with the formalities within the stipulated time and submitted an application on 22.10.2001 to the third respondent requesting permission to establish IL-24 shop in Malkapoor village instead of at Nagoor village on the ground that already three shops were sanctioned to Nagnoor village. The proposal submitted by the petitioner was forwarded to first respondent and vide proceedings dated 27.11.2001 permission was granted to the petitioner to establish IL-24 shop at Malkapoor village instead of Nagnoor village and the petitioner has complied with the formalities on 28.11.2001 and licence was granted to him on 29.11.2001. It is stated that in terms of Condition No.7 of the notification, the petitioner is not entitled to refund of licence fee for the period it did not undertake the business, inasmuch as the successful applicant, will have to pay the remaining balance licence fee payable before grant of licence by way of treasury challan within 7 days of his selection. It is contended that there is no delay on the part of the respondents in granting licence and the petitioner is not entitled to any refund.

Heard the learned counsel for petitioner and learned Government Pleader for Excise.

The petitioner seeks refund of the licence fee for the period he could not undertake the business and placed reliance on orders of this

Court in W.P. No. 15320 of 2002 dated 26.9.2002, wherein licence fee was directed to be refunded or adjusted since the petitioner therein was prevented from doing the business in terms of the interim orders granted by this Court, which were later on vacated. But the facts of the present case are different inasmuch as in the present case, the petitioner was not prevented by the respondents from conducting the business and he himself for his own reasons has not complied with the formalities within the stipulated period and later on sought for shifting the shop from Nagnoor village to that of Malkapur village. Hence, he cannot contend that he was prevented from conducting the business and is entitled to refund of the licence fee.

There are no merits in the writ petition warranting interference. Accordingly, the writ petition is dismissed. No costs.

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N.V.RAMANA,J

DATE: 18.7.2007

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